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In re Application of	:	
LIANG, ZICAI	:	
Application No.: 10/517,324	:	DECISION ON PETITION
PCT No.: PCT/SE03/01077	:	
Int. Filing Date: 23 June 2003	:	UNDER 37 CFR 1.181
Priority Date: 21 June 2002	:	
Attorney Docket No.: 040679	:	
For: OCULAR GENE THERAPY	:	

This decision is in response to applicant's "SECOND REQUEST FOR STATUS" filed 22 March 2007, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 23 June 2003, applicant filed international application PCT/SE03/01077, which claimed priority of an earlier application filed 21 June 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 31 December 2003. Pursuant to 37 CFR 1.485, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 21 December 2004.

On 20 December 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2), and an oath or declaration as required by 35 U.S.C. 371(c)(4).

On 26 July 2005, applicant was mailed a NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURE UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant that the paper or compact disc copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 CFR 1.821(e).

listing", as well as an amendment specifically directing its entry into the application or a substitute computer readable form copy of the sequence listing. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 26 September 2005, applicant submitted a sequence listing for the application in paper copy form and in a computer readable form. A statement was also made indicating that the content of the sequence listing information recorded in computer readable form is identical to the written sequence listing.

On 12 April 2006, applicant was mailed a NOTIFICATION OF DEFECTIVE RESPONSE UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) again informing applicant of the need to provide a substitute paper or compact disc copy of the "sequence listing", as well as an amendment specifically directing its entry into the application or a substitute computer readable form copy of the sequence listing. In addition, applicant was advised of the need to furnish a statement that the content of the sequence listing information recorded in computer readable form is identical to the written sequence listing. Applicant was given one month to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 12 May 2006, applicant submitted a purported corrected sequence listing in paper and in CRF. A statement was made indicating that the paper copy and the computer readable form sequence listing are the same.

On 30 June 2006, applicant submitted a supplemental sequence listing to replace the sequence listing submitted on 12 May 2006.

On 06 July 2006, the Scientific and Technical Information Center (STIC) Biotechnology Branch issued an error report indicating that the sequence listing does not conform to the requirement.

On 04 April 2007, applicant submitted a request for status. Applicant indicated that the transaction history page in the PAIR system erroneously indicates the abandonment of the subject application and requested the file be reviewed and the status of the application be corrected.

DISCUSSION

37 CFR 1.821(g) refers to nucleotide and/or amino acid sequence disclosures in patent applications. It requires compliance with the requirements of 37 CFR 1.821(b) through (f). If they are not satisfied at the time of filing under 35 U.S.C. 111(a) or at the time of entering the national stage of an international application under 35 U.S.C. 371, applicant will be notified and given a period of time to comply with such requirements in order to prevent abandonment of the application. When an action by the applicant is a *bona fide* attempt to comply with these rules and it is apparent that compliance with some requirement has inadvertently been omitted, the applicant may be given a new time period to correct the omission.

Applicant was given a NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURE UNDER 35 U.S.C. 371 on 26 July 2005. The response submitted on 26 September 2005 was defective. The Office proceeded to send out a NOTIFICATION OF DEFECTIVE RESPONSE on 12 April 2006. Applicant's responses to the notification were once again defective as set out in the sequence listing error report. Since the sequence listing did not comply with 37 CFR 1.821(b)-(f) after the notifications, the failure to comply resulted in the abandonment of the application.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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